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By: **Montgomery County Delegation and Prince George's County  
Delegation**

Introduced and read first time: February 7, 2003  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 31, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Prince George's County - ~~Washington Suburban Sanitary Commission and~~**  
3 **Maryland-National Capital Park and Planning Commission -**  
4 **Commissioners -~~Removal~~**  
5 **MC/PG 121-03**

6 FOR the purpose of ~~authorizing, in Prince George's County, the removal of a~~  
7 ~~commissioner of the Washington Suburban Sanitary Commission or a~~  
8 ~~commissioner of the Maryland-National Capital Park and Planning~~  
9 ~~Commission at the will of the County Executive for Prince George's County;~~  
10 ~~repealing certain requirements that the removal be subject to approval by a~~  
11 ~~majority of the Prince George's County Council; repealing certain requirements~~  
12 ~~for notice and hearing under certain circumstances; and generally relating to~~  
13 ~~the removal, in Prince George's County, of a commissioner of the Washington~~  
14 ~~Suburban Sanitary Commission or a commissioner of the Maryland National~~  
15 ~~Capital Park and Planning Commission~~ altering the date on which a  
16 commissioner of the Maryland-National Capital Park and Planning  
17 Commission from Prince George's County is appointed; applying certain  
18 provisions regarding conflicts of interest to commissioners from Prince George's  
19 County; providing for the termination of the terms of certain commissioners of  
20 the Maryland-National Capital Park and Planning Commission; providing for  
21 the appointment and terms of office of certain commissioners of the  
22 Maryland-National Capital Park and Planning Commission; providing for the  
23 effective date of this Act; and generally relating to commissioners of the  
24 Maryland-National Capital Park and Planning Commission from Prince  
25 George's County.

1 BY repealing and reenacting, with amendments,  
 2 Article 28 - Maryland-National Capital Park and Planning Commission  
 3 Section ~~2-103~~ 2-102 and 2-115  
 4 Annotated Code of Maryland  
 5 (1997 Replacement Volume and 2002 Supplement)

6 ~~BY repealing and reenacting, with amendments,  
 7 Article 29 - Washington Suburban Sanitary District  
 8 Section 1-104  
 9 Annotated Code of Maryland  
 10 (1997 Replacement Volume and 2002 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 28 - Maryland-National Capital Park and Planning Commission**

14 ~~2-103.~~

15 (A) ~~The County Council of Montgomery County may remove any member of  
 16 the Commission appointed from Montgomery County. Removals may occur prior to  
 17 the expiration of the term for which they were appointed. [The County Executive of  
 18 Prince George's County may remove at his pleasure any members from that county  
 19 prior to the expiration of the term for which they were appointed, subject to the  
 20 approval of the County Council of Prince George's County by a vote of a majority of  
 21 the full Council. In each case, the] THE cause of removal shall be stated in writing  
 22 and a public hearing held on the removal. [However, in Prince George's County the  
 23 Commission member sought to be removed may waive in writing the public hearing  
 24 held by the Council. Further, this provision does not apply to any Prince George's  
 25 member of the Commission in office on June 1, 1975 for the member's current term of  
 26 office.] Any vacancy occurring in the membership of the Commission from  
 27 Montgomery County for any cause shall be filled by the County Council for the  
 28 unexpired term [and any vacancy occurring in the membership of the Commission  
 29 from Prince George's County shall be filled in the manner provided in this title for the  
 30 making of appointments to the Commission. A person appointed to fill any vacancy for  
 31 an unexpired term shall be] BY a member of the same political party as was  
 32 represented by the member who vacated the office.~~

33 (B) ~~THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY REMOVE AT  
 34 WILL ANY MEMBER OF THE COMMISSION APPOINTED FROM PRINCE GEORGE'S  
 35 COUNTY.~~

36 **Article 29 - Washington Suburban Sanitary District**

37 ~~1-104.~~

38 (a) ~~A commissioner may be removed before the completion of the  
 39 commissioner's term:~~

- 1           (1)     ~~In Montgomery County:~~
- 2                     (i)     ~~By the County Executive with the approval of a majority of the~~  
3 ~~members of the County Council; or~~
- 4                     (ii)    ~~Unless the Montgomery County Executive disapproves the~~  
5 ~~resolution in writing within 30 days of its adoption, by resolution of a majority of the~~  
6 ~~members of the County Council; and~~
- 7           (2)     ~~In Prince George's County, [by] AT THE WILL OF the County~~  
8 ~~Executive [with the approval of a majority of the members of the County Council].~~

9       (b)     ~~IN MONTGOMERY COUNTY:~~

- 10           (1)     ~~Unless a hearing is waived in writing by the commissioner~~  
11 ~~designated for removal, prior to any removal under this subsection a public hearing~~  
12 ~~shall be held[;~~
- 13                     (i)     ~~In Montgomery County,] by the body initiating the removal~~  
14 ~~proceeding[; and~~
- 15                     (ii)    ~~In Prince George's County, by the County Council.]; AND~~
- 16           (2)     ~~Each commissioner shall be given an opportunity at the hearing to~~  
17 ~~present a defense.~~

18 2-102.

19     The term of office of each member of the Commission is four years.  
20 [Appointments] IN MONTGOMERY COUNTY, APPOINTMENTS shall be made on or  
21 before June 15 of the year in which any appointment is to be made, and terms of office  
22 shall begin as of that [date and if] DATE. IN PRINCE GEORGE'S COUNTY,  
23 APPOINTMENTS SHALL BE MADE ON OR BEFORE FEBRUARY 1 OF THE YEAR IN  
24 WHICH ANY APPOINTMENT IS TO BE MADE, AND TERMS OF OFFICE SHALL BEGIN AS  
25 OF THAT DATE. IF any appointment is not made as provided in this section a vacancy  
26 exists which shall be filled as provided in this article for the filling of vacancies on the  
27 Commission. The members of the Commission in office immediately prior to July 1,  
28 1975 shall remain in office under the provision of this article for the remainder of the  
29 terms for which they were appointed. Members may continue to serve until their  
30 successors are appointed and have qualified. In Montgomery County a person may  
31 not be appointed for 3 consecutive, full terms. Those members who have served 2  
32 consecutive terms may complete their current terms.

33 2-115.

34     (a)     THIS SECTION APPLIES TO COMMISSIONERS APPOINTED FROM  
35 MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

36     (B)     No commissioner may:

1           (1)     Decide or participate in a decision in which the commissioner has a  
2 financial interest, whether as owner, member, partner, officer, employee, stockholder,  
3 or other participant of or in any private business or professional enterprise, that will  
4 be affected by such decision, nor may a commissioner knowingly participate in a  
5 decision affecting the financial interest of a person related to the commissioner or the  
6 commissioner's spouse, father, mother, brother, sister, or child, jointly or severally.  
7 This paragraph may not be construed to prohibit a commissioner from having or  
8 holding private investment, business, or professional interests, but shall be construed  
9 to apply when these interests are or reasonably may be in conflict with the proper  
10 performance of duty by the commissioner. These interests shall be presumed to be in  
11 conflict with the proper performance of duty by the commissioner when the  
12 commissioner or the commissioner's spouse, father, mother, brother, sister or child,  
13 jointly or severally, owns a total of more than three percent of the invested capital or  
14 capital stock of any groups, firms, corporations, or associations involved in the  
15 decision being made by the commissioner or the commission or planning board on  
16 which the commissioner serves or receives a total combined compensation of more  
17 than \$5,000 per year from any individual, groups, firms, corporations, or associations  
18 involved in the decision being made by the commissioner or the commission or  
19 planning board on which the commissioner serves. The prohibition does not apply to  
20 or include an interest or investment in land geographically remote from the land  
21 involved in the decision, the ownership of a recorded single family lot on which the  
22 member actually resides, or a possibility of reverter, a mortgage, or other security  
23 interest in which the real property in interest is not as otherwise defined in this  
24 paragraph.

25           (2)     Act as broker, agent, attorney, representative, or employee of any  
26 person in the person's business dealings with Montgomery County, Prince George's  
27 County, the Maryland-National Capital Park and Planning Commission or  
28 Washington Suburban Sanitary Commission nor may the commissioners decide or  
29 participate in a decision on any matter in which a close business or professional  
30 associate has acted in any of these capacities or represented private interests before  
31 either county or the above commissions. The commissioners may not represent  
32 private interest or appear in a position of advocacy, other than in the performance of  
33 their official duties, either in person or by associate, in any matter or proceeding  
34 pending before the Montgomery County Council, the Prince George's County Council,  
35 Maryland-National Capital Park and Planning Commission, Washington Suburban  
36 Sanitary Commission, the Prince George's County Board of Appeals, or the  
37 Montgomery County Board of Appeals.

38           (3)     Solicit or accept any gift, favor, loan, service, promise, employment or  
39 thing which might influence or tend to influence the proper performance of the  
40 commissioner's duty.

41           (4)     Disclose any confidential information concerning the property,  
42 management, or affairs of either county, Maryland-National Capital Park and  
43 Planning Commission or Washington Suburban Sanitary Commission or use such  
44 information to advance the financial or other private interests of the commissioner or  
45 other persons.

1           (5)     Attempt to influence for a purpose contrary to the provisions of this  
2 section any other county or State official in the conduct of the other official's duties.

3     [(b)]   (C)     No part of this section may be construed to prohibit a commissioner  
4 from appearing in the pursuit of the commissioner's private interests as a citizen; or  
5 from accepting or receiving any benefit by operation of law, or prosecuting or  
6 pursuing any claim, right, privilege, or remedy which is the commissioner's by  
7 operation of law.

8     [(c)]   (D)     When a commissioner has any interest as described in this section  
9 which is or reasonably may be incompatible with or in conflict with any of the  
10 commissioner's official duties or acts, the commissioner shall disclose the interest in a  
11 regular public meeting of the commission or the planning boards and the disclosure  
12 shall appear in the minutes, and the commissioner is disqualified and may not  
13 participate in the decision or act affected thereby.

14    [(d)]   (E)     Any commissioner convicted of violating subsection [(a)] (B) of this  
15 section is guilty of a misdemeanor, and shall be punishable by a fine of not more than  
16 \$1,000 or six months in jail, or both fine and imprisonment, or by suspension from the  
17 commission or employment for not more than six months, or by outright forfeiture  
18 and removal from office, or by any combination of these, as in the discretion of the  
19 court is fit and proper.

20    [(e)]   (F)     The provisions of this section are severable and are as provided in  
21 Article 1, § 23 of the Code.

22     SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding Article  
23 28, § 2-102 of the Code, the terms of all the commissioners of the Maryland-National  
24 Capital Park and Planning Commission appointed from Prince George's County  
25 servng on June 14, 2003, or their successors selected to fill a vacancy, shall terminate  
26 on June 15, 2003. The terms of the commissioners appointed from Prince George's  
27 County whose term of office begins on June 15, 2003, shall terminate on January 31,  
28 2007, or until their successors are appointed and qualify. Beginning with the term of  
29 office of the commissioners appointed in 2007, the appointment of the commissioners  
30 shall conform to the provisions of Article 28, § 2-102 of the Code as enacted by this  
31 Act.

32     SECTION ~~2-~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect ~~October~~ June 1, 2003.